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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,311	12/19/2001	John Philip West	22750/516	8928
26646	7590	06/09/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			TORRES, MELANIE	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,311

Applicant(s)

WEST, JOHN PHILIP

Examiner

Melanie Torres

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by de Fontenay.

Re claims 1 and 21, de Fontenay discloses a hydraulic including a journal bearing (3) and a supporting bearing (4) which are joined by a spring body (2) made of a rubber elastic material and border on at least one working space (5) and at least one compensating space (6), the working space and the compensating space being each filled with a damping fluid and communicating through a damping device (1) in a fluid-conducting manner, wherein, in response to relative displacement of the journal bearing and the supporting bearing with respect to one another, the damping device has damping fluid flowing through it wherein the damping device (1) is formed by a partition between the working space and the compensating space and the partition has at least one radially extending damping channel (8,9, Figure 2).

Re claim 2, see Figure 2.

Re claims 3-4, see Fig. 4.

Re claims 19 and 20, see membrane 7 in Fig. 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Fontenay in view of Brenner et al.

Re claims 5-10, de Fontenay does not teach wherein the working space has at least one variable volume fluid pocket extending in the axial direction. Brenner et al. teaches wherein a working space has at least one variable volume fluid pocket extending in an axial direction. See pocket 3a in Fig. 1 and 4a.

Response to Arguments

5. Applicant's arguments filed March 21, 2005 have been fully considered but they are not persuasive.

Applicant argues that de Fontenay does not teach that in response to relative radial displacement of the journal bearing and the support bearing with respect to one another, the damping device has damping fluid flowing through it. The examiner strongly disagrees with this argument. As can be seen in figure1, de Fontenay's journal bearing 3 and support bearing 4 are entirely capable of relative radial displacement to the exact extent as applicant's invention. This displacement would inherently create fluid flow through the damping device.

Applicant's arguments state that the instant specification discloses wherein "the journal bearing (1) is radially displaced toward the support bearing (2), the volume of the fluid pocket (9) in the working space (4) is reduced, the displaced portion of the fluid passing through the partition (7) and being accommodated in the compensating space(12)." It is the examiner's position that the device of de Fontenay is capable of operating in the same manner and the disclosure of longitudinal vibrations does not preclude its operation in a radial direction. The structure of the spring body with respect to the bearings is such that vibrations in both directions would be absorbed.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The examiner addresses the variable volume fluid pocket by modifying the de Fontenay invention with Brenner et al. as described above. As *modified*, it is the examiner's position that all of the limitations are met including the radial displacement of the support bearing and journal bearing and the working space as argued by applicant.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Torres whose telephone number is (571)272-7127. The examiner can normally be reached on Monday-Friday, 6:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (571)272-7099. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MT
June 6, 2005

Melanie Torres
6-6-05